Google Inc. et al v. Egger et al Doc. 327 Att. 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CENTER FOR CONSTITUTIONAL RIGHTS, TINA M. FOSTER, GITANJALI S. GUTIERREZ, SEEMA AHMAD, MARIA LAHOOD, RACHEL MEEROPOL, Plaintiffs, v. GEORGE W. BUSH, President of the United States; NATIONAL SECURITY AGENCY, LTG Keith B. Alexander, Director; DEFENSE INTELLIGENCE AGENCY, LTG Michael D. Maples, Director; CENTRAL INTELLIGENCE AGENCY, Porter J. Goss, Director; DEPARTMENT OF HOMELAND SECURITY, Michael Chertoff, Secretary; FEDERAL BUREAU OF INVESTIGATION, Robert S. Mueller III, Director JOHN D. NEGROPONTE Director of National Intelligence, Defendants.	)	Case No. 06-cv-313 Hon. Gerard E. Lynch

DEFENDANTS' MOTION TO STAY CONSIDERATION OF PLAINTIFFS' PARTIAL MOTION FOR SUMMARY JUDGMENT

Defendants, through their undersigned counsel, hereby move to stay consideration of Plaintiffs' Motion for Partial Summary Judgment. The grounds for this motion are that, in response to Plaintiffs' Complaint, Defendants have moved to dismiss, or in the alternative, for summary judgment on the basis that Plaintiffs cannot establish the requisite standing to bring this action, and because the assertion of the military and state secrets privilege and other specified statutory privileges by the United States in this action requires the exclusion of state secrets relevant to the resolution of Plaintiffs' claims, and that the unavailability of this information

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requires dismissal or entry of summary judgment in favor of Defendants. Because the Court's jurisdiction is a threshold consideration, and because Defendants' states secrets and other specified statutory privilege assertions require the exclusion of evidence necessary to the resolution of this action, Plaintiffs' Motion for Partial Summary Judgment, which seeks adjudication on the merits of their claims, should be deferred until the Court has ruled on the threshold standing and state secrets and other specified statutory privilege issues presented by Defendants in response to the Complaint.

The grounds for this motion are set forth further in Section VI of Defendants' Memorandum of Points and Authorities in Support of the United States' Assertion of the Military and State Secrets Privilege; and Defendants' Motion to Dismiss or, in the Alternative, Motion for Summary Judgment; and Defendants' Motion to Stay Consideration of Plaintiffs' Motion for Summary Judgment.

Respectfully submitted,

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